IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR
Criminal Application No.1244/06
(Pandurang Atmaram Sahane and another Vs. State of Mah.)

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. : Court's or Judge's orders

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CORAM : A.P. Lavande, J.
Dated : June 21, 2007

Heard Mr. Kashid, learned counsel for the applicant and Mrs. Joshi, learned counsel for respondent.

By this application under Section 482 of the Code of Criminal Procedure, the applicant challenges F.I.R. dated 10.6.2005 registered vide Crime No.70/05 with Jalgaon (Jamod) Police Station. It has been pointed out by Mrs. Joshi, learned A.P.P. that after filing of the present application charge-sheet has already been filed before the Judicial Magistrate First Class, Jalgaon (Jamod) and process has already been issued against the applicant. Mrs. Joshi, therefore, submitted that this is not a fit case in which jurisdiction under Section 482 of the Code of Criminal Procedure should be exercised and the

applicant must be permitted to urge before the Magistrate that the criminal proceedings against the applicant are not maintainable.

Having heard learned counsel for the parties, I find merit in the submission of Mrs. Joshi since charge-sheet has already been filed in the matter and the applicant has appeared pursuant to the issuance of process, I am of the opinion that it would be in the interest of justice to permit the applicant to urge before the Magistrate that the criminal proceedings are not maintainable against the applicant.

In view of the above, the application is disposed of with liberty to the applicant to urge before the Judicial Magistrate First Class, Jalgaon (Jamod) that the criminal proceedings against the applicant are not maintainable. Learned Magistrate shall hear the applicant on the question of maintainability of the criminal proceedings and pass appropriate orders.

The application stands disposed of in the aforesaid terms.

JUDGE